

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HARRY T. COLLINS,)	
)	
Plaintiff,)	
)	C.A. No. 05-624-SLR
v.)	
)	
LINDA HUNTER,)	
WARDEN RAPHAEL WILLIAMS, and)	Jury Trial Requested
CORRECTIONAL MEDICAL SYSTEMS,)	
)	
Defendants.)	

**STATE DEFENDANT WARDEN RAPHAEL WILLIAMS’
ANSWER TO THE AMENDED COMPLAINT [RE: D.I. 62]**

COMES NOW, State Defendant Warden Raphael Williams (“Warden Williams”), by and through his undersigned counsel, and hereby responds to the Amended Complaint of Plaintiff Harry T. Collins (“Collins” or “Plaintiff”), filed February 16, 2007 (D.I. 62) (the “Amended Complaint”). The Amended Complaint is not formatted in paragraphs. Therefore, State Defendants respond to the Amended Complaint as follows:

Section One – “Motion to Amend”

Plaintiff filed a three page section entitled “Motion to Amend” that appears to be part of the Amended Complaint. To the extent the section entitled “Motion to Amend” is part of the Amended Complaint, Warden Williams responds as follows:

Paragraph No. 1: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph No. 1 of the “Motion to Amend” section of the Amended Complaint that begin with the words, “I Harry T. Collins” and, therefore, denies same.

Paragraph No. 2: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph No. 2 of the “Motion to Amend” section of the Amended Complaint that begin with the words, “At this time” and, therefore, denies same.

Paragraph No. 3: The allegations of Paragraph No. 3 of the “Motion to Amend” section of the Amended Complaint that begin with the words, “Pertaining to” state a legal conclusion to which no response is required. To the extent a response is required Warden Williams specifically denies any wrongdoing.

Paragraph No. 4: Warden Williams admits that he is immune from liability for the claims in Plaintiff’s Amended Complaint. Warden Williams denies each and every other allegation of Paragraph No. 4 of the “Motion to Amend” section of the Amended Complaint that begins with the words, “Mr. Williams” not specifically admitted herein.

Paragraph No. 5: The allegations of Paragraph No. 5 of the “Motion to Amend” section of the Amended Complaint that begin with the words, “Section 1” are denied.

Paragraph No. 6: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph No. 6 of the “Motion to Amend” section of the Amended Complaint that begin with the words, “As to weather [sic]” and, therefore, denies same.

Paragraph No. 7: The allegations of Paragraph No. 7 of the “Motion to Amend” section of the Amended Complaint that begin with the words, “It seems [sic]” are denied.

Section Two – “Introduction”

Sentence No. 1: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 1 of the “Introduction” section of the Amended Complaint that begin with the words, “Upon my arrival” and, therefore, denies same.

Sentence No. 2: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 2 of the “Introduction” section of the Amended Complaint that begin with the words, “I never got any” and, therefore, denies same.

Sentence No. 3: Warden Williams admits that the pleadings and motions he has filed in this case state facts and case law. Warden Williams denies each and every other allegation of Sentence No. 3 of the “Introduction” section of the Amended Complaint that begin with the words, “I know I’m” not specifically admitted herein.

Sentence No. 4: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 4 of the “Introduction” section of the Amended Complaint that begin with the words, “I also stated” and, therefore, denies same.

Sentence No. 5: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 5 of the “Introduction” section of the Amended Complaint that begin with the words, “I put in sick call” and, therefore, denies same.

Sentence No. 6: Warden Williams is without knowledge or

information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 6 of the “Introduction” section of the Amended Complaint that begin with the words, “I repeatedly put” and, therefore, denies same.

Sentence No. 7: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 7 of the “Introduction” section of the Amended Complaint that begin with the words, “Later in this suit” and, therefore, denies same.

Sentence No. 8: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 8 of the “Introduction” section of the Amended Complaint that begin with the words, “She then offered” and, therefore, denies same.

Sentence No. 9: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 9 of the “Introduction” section of the Amended Complaint that begin with the words, “I then started filing” and, therefore, denies same.

Sentence No. 10: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 10 of the “Introduction” section of the Amended Complaint that begin with the words, “Mrs. Hunter offered” and, therefore, denies same.

Sentence No. 11: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 11 of the “Introduction” section of the Amended Complaint that begin with the words, “She told me” and, therefore, denies same.

Sentence No. 12: Warden Williams admits that Plaintiff sent grievances to his office regarding various issues. Warden Williams denies each and every other allegation of Sentence No. 12 of the “Introduction” section of the Amended Complaint that begins with the words, “I continued” not specifically admitted herein.

Sentence No. 13: Warden Williams denies that he supervised Plaintiff’s visits with the doctor. Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations asserted in Sentence No. 13 of the “Introduction” section of the Amended Complaint that begin with the words, “They at that time” and, therefore, denies same.

Sentence No. 14: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 14 of the “Introduction” section of the Amended Complaint that begin with the words, “Sure enough” and, therefore, denies same.

Sentence No. 15: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 15 of the “Introduction” section of the Amended Complaint that begin with the words, “I said to the nurse” and, therefore, denies same.

Sentence No. 16: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 16 of the “Introduction” section of the Amended Complaint that begin with the words, “At that time” and, therefore, denies same.

Sentence No. 17: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in

Sentence No. 17 of the “Introduction” section of the Amended Complaint that begin with the words, “If you check” and, therefore, denies same.

Sentence No. 18: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 18 of the “Introduction” section of the Amended Complaint that begin with the words, “I was right back” and, therefore, denies same.

Sentence No. 19: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 19 of the “Introduction” section of the Amended Complaint that begin with the words, “Shortly after” and, therefore, denies same.

Sentence No. 20: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 20 of the “Introduction” section of the Amended Complaint that begin with the words, “All that pain” and, therefore, denies same.

Sentence No. 21: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 21 of the “Introduction” section of the Amended Complaint that begin with the words, “Doctor Kendal” and, therefore, denies same.

Sentence No. 22: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 22 of the “Introduction” section of the Amended Complaint that begin with the words, “They even made it hard” and, therefore, denies same.

Sentence No. 23: Warden Williams is without knowledge or

information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 23 of the “Introduction” section of the Amended Complaint that begin with the words, “The facts” and, therefore, denies same.

Sentence No. 24: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 24 of the “Introduction” section of the Amended Complaint that begin with the words, “I arrive” and, therefore, denies same.

Sentence No. 25: The allegations of Sentence No. 25 of the “Introduction” section of the Amended Complaint that begin with the words, “They have had” state a legal conclusion to which no response is required. To the extent a response is required Warden Williams specifically denies any wrongdoing.

Sentence No. 26: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 26 of the “Introduction” section of the Amended Complaint that begin with the words, “As you see” and, therefore, denies same.

Section Three – “Background”

Sentence No. 1: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 1 of the “Background” section of the Amended Complaint that begin with the words, “As the prosecutor” and, therefore, denies same.

Sentence No. 2: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 2 of the “Background” section of the Amended Complaint that begin with

the words, “As your Honor” and, therefore, denies same.

Sentence No. 3: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 3 of the “Background” section of the Amended Complaint that begin with the words, “The prosecutor” and, therefore, denies same.

Section Four – “Discussion”

Sentence No. 1: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 1 of the “Discussion” section of the Amended Complaint that begin with the words, “Its [sic] my contention” and, therefore, denies same.

Sentence No. 2: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 2 of the “Discussion” section of the Amended Complaint that begin with the words, “I feel it’s the common decency” and, therefore, denies same.

Sentence No. 3: Warden Williams admits that he is immune from liability for the claims in Plaintiff’s Amended Complaint. Warden Williams denies each and every other allegation of Sentence No. 3 of the “Discussion” section of the Amended Complaint that begins with the words, “The prosecutor would” not specifically admitted herein.

Sentence No. 4: The allegations of Sentence No. 4 of the “Discussion” section of the Amended Complaint that begin with the words, “I say” state a legal conclusion to which no response is required. To the extent a response is required Warden Williams specifically denies any wrongdoing.

Sentence No. 5: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 5 of the “Discussion” section of the Amended Complaint that begin with the words, “The prosecutor is” and, therefore, denies same.

Sentence No. 6: The allegations of Sentence No. 6 of the “Discussion” section of the Amended Complaint that begin with the words, “I contend” are denied.

Sentence No. 7: The allegations of Sentence No. 7 of the “Discussion” section of the Amended Complaint that begin with the words, “And the prof [sic]” state a legal conclusion to which no response is required. To the extent a response is required Warden Williams specifically denies any wrongdoing.

Sentence No. 8: Warden Williams is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Sentence No. 8 of the “Discussion” section of the Amended Complaint that begin with the words, “I at this time” and, therefore, denies same.

Section Five – “Statement of Claim”

Sentence No. 1: Warden Williams denies that Plaintiff is entitled to the relief requested in Sentence No. 1 of the “Statement of Claim” section of the Amended Complaint that begin with the words, “My claim ageist [sic] one Raphael Williams”.

Sentence No. 2: The allegations of Sentence No. 2 of the “Statement of Claim” section of the Amended Complaint that begin with the words, “My claim ageist [sic] CMS” appear to be directed to another party, therefore no response is

required. To the extent a response is required Warden Williams specifically denies any wrongdoing and denies that Plaintiff is entitled to any relief.

Relief Requested

Warden Williams specifically denies that Plaintiff is entitled to any relief or damages, including compensatory damages, punitive damages, costs and/or attorneys' fees.

DEFENSES AND AFFIRMATIVE DEFENSES

1. The Amended Complaint fails to state claims upon which relief may be granted.
2. This action and all claims are barred by Eleventh Amendment immunity.
3. As to any claims against the State or against Warden Williams in his official capacity, Warden Williams and the State are protected from liability by the doctrine of sovereign immunity.
4. Officials and employees of the State of Delaware acting in good faith within the scope of their employment and without knowingly violating well established federal rights, are entitled to qualified immunity and cannot be held liable in this action.
5. Warden Williams, in his official capacity, is not liable for alleged violations of Plaintiff's constitutional rights as he is not a "person" within the meaning of 42 U.S.C. § 1983.
6. As to any claims sounding in state law, Warden Williams is immune from liability under the State Tort Claims Act, 10 Del. C. §4001, *et seq.*

7. To the extent the Plaintiff seeks to hold Warden Williams liable based on supervisory responsibilities, the Doctrine of Respondeat Superior or vicarious liability is not a basis for liability in an action under 42 *U.S.C.* § 1983.

8. This action and all claims are barred, in whole or in part, by the applicable statute of limitations or any other statutorily required administrative time requirement.

9. Plaintiff has failed to exhaust his administrative remedies, including but not limited to, remedies pursuant to 42 *U.S.C.* § 1997a(e).

10. Warden Williams cannot be held liable in the absence of personal involvement for alleged constitutional deprivations.

11. The Plaintiff's claims are barred by his contributory negligence.

12. To the extent Plaintiff's claims sound in negligence, Plaintiff cannot state a cause of action under 42 *U.S.C.* § 1983.

13. Plaintiff fails to state a claim against Warden Williams for failure to train or for maintenance of wrongful customs, practices and policies.

14. Plaintiff fails to state a claim against Warden Williams for violation of the Eighth Amendment.

15. Plaintiff's injuries were caused, in whole or in part, and/or exacerbated by a pre-existing condition which existed prior to the date of any alleged wrongful conduct by Warden Williams.

16. Plaintiff's injuries and damages, if any, resulted from an intervening and superseding cause.

17. Plaintiff's own conduct proximately caused and/or exacerbated his

injuries, if any.

18. Insufficiency of service of process.
19. Insufficiency of process.
20. Lack of jurisdiction over the person and subject matter.

WHEREFORE, Warden Williams respectfully requests the Court grant judgment in his favor and against the Plaintiff in all respects, and enter an Order (i) dismissing the Complaint in its entirety as to Warden Williams; (ii) awarding Warden Williams his fees and costs; and (iii) granting such other and further relief as is just and proper.

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)

Deputy Attorney General

820 N. French Street

Wilmington, DE 19801

(302) 577-8400

Attorney for State Defendant Warden

Raphael Williams

Dated: April 20, 2007

CERTIFICATE OF SERVICE

I, Erika Y. Tross, Esq., hereby certify that on April 20, 2007, I caused a true and correct copy of the attached *State Defendant Warden Raphael Williams' Answer to the Amended Complaint [Re: D.I. 62]* to be served on the following individual in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT:

Harry T. Collins
211 Harding Avenue
Wilmington, DE 19804

MANNER OF DELIVERY:

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross
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